

Minutes
Bar Harbor Town Council
February 2, 2010

- I. **CALL TO ORDER** – 7:00 p.m. – In attendance were Councilors: Sandy McFarland, Ruth Eveland, Paul Paradis, Peter St. Germain, Jane Disney, Greg Veilleux, Robert Jordan, Jr.; and Town Manager Dana Reed.

A. **Excused Absence(s)** – *None*

- II. **APPROVAL OF MINUTES**

A. *January 19, 2010, Regular Meeting*

B. *January 19, 2010, Special Meeting*

C. *January 21, 2010*

Mr. Paradis, with second by Ms. Eveland, moved to approve the minutes of the January 19, 2010 special meeting as presented, the January 19, 2010 regular meetings as amended to reflect that, in item VII(C) (1), Mr. Jordan is the “President”, and not the “Executive Director”, of the Criterion Theater and Arts Center, and the minutes of the January 21, 2010 special meeting as presented. Motion passed 7-0.

- III. **ADOPTION OF AGENDA** – Mr. Paradis, with second by Ms. Eveland, moved to approve the agenda as presented. Motion passed 7-0.

- IV. **FINANCIAL STATEMENTS:** *(Customarily presented at the second meeting each month)*

- V. **CONSENT AGENDA** – *A single vote has been scheduled to approve the following items of business without discussion, unless individual agenda item action is requested by a Councilor:*

A. **Proclamation** – *Possible adoption of a motion to adopt the proclamation declaring February 6, 2010 as YWCA Dress Red Day in Bar Harbor to enhance awareness of women and heart disease.*

B. **Economic Development Task Force** – *Possible adoption of a motion to adopt the amendment of the EDTF Bylaws to change the membership composition as Council directed at the January 5 meeting.*

Mr. Paradis, with second by Ms. Eveland, moved to approve all the items as published on the consent agenda. Motion passed 7-0.

- VI. **PUBLIC HEARINGS:**

A. **Land Use Ordinance Amendments:**

1. **Downtown Village I, II and Village Transitional Districts and Official Zoning Map Amendment** – Request from Bar Harbor Agency representative Eben Salvatore was to include specific written

language indicating the proposed amendments to section 125-21 apply prospectively to future projects only and will have no applicability to their current project or any permits associated with the West Street Hotel project. Following public comments and Council discussion, Mr. Paradis, with second by Ms. Eveland, moved to accept the final Language as presented and amended to reflect the request from Eben Salvatore as presented and direct the Town Clerk to prepare the Order to place the Downtown Village I, II, and Village Transitional Districts and Official Zoning Map Land Use Ordinance amendment on the June 8, 2010 Town Meeting Warrant, pending Town Attorney review. Motion passed 7-0.

2. **Definition of Commercial Agriculture and Appendix C Amendment** – Following comments from the public and Council discussion, Mr. Paradis, with second by Ms. Eveland, moved to accept the final Language as presented and direct the Town Clerk to prepare the Order to place the Definition of Commercial Agriculture and Appendix C Land Use Ordinance amendment on the June 8, 2010 Town Meeting Warrant. Motion passed 6-1 (Nay: Dr. Disney).
3. **Certificate of Occupancy and Performance Guarantee Standards** – Following a brief explanation from Planning Director Anne Krieg and there being no public comments made; Mr. Paradis, with second by Ms. Eveland, moved to accept the final Language as presented and direct the Town Clerk to prepare the Order to place the Certificate of Occupancy and Performance Guarantee Standards Land Use Ordinance amendment on the June 8, 2010 Town Meeting Warrant. Motion passed 7-0.
4. **Planned Unit Development – Outlying Area** – There being no comments from the public; Mr. Paradis, with second by Ms. Eveland, moved to accept the final Language as presented and direct the Town Clerk to prepare the Order to place the Planned Unit Development – Outlying Area Land Use Ordinance amendment on the June 8, 2010 Town Meeting Warrant. Motion passed 7-0.
5. **Town Hill Village District and Map and Mini-Plan** – Following much discussion and many comments from the public; Mr. Paradis, with second by Ms. Eveland, moved to accept the final Language as presented and direct the Town Clerk to prepare the Order to place the Town Hill District and Map and Mini-Plan Land Use Ordinance amendment on the June 8, 2010 Town Meeting Warrant. Motion passed 5-2 (Nay: Dr. Disney, Mr. Veilleux).
6. **Village Historic District and Official Zoning Map Amendment** – Following comments from the public, Mr. Paradis, with second by Ms. Eveland, moved to accept the final Language as presented in the version removing the number of rooms from the Bed & Breakfast definition as endorsed by the Planning Board and Economic Develop-

ment Task Force and direct the Town Clerk to prepare the Order to place the Village Historic District and Official Zoning Map Land Use Ordinance amendment on the June 8, 2010 Town Meeting Warrant. Motion passed 7-0.

7. **Village Residential District and Official Zoning Map Amendment** – Mr. Paradis, with second by Ms. Eveland, moved to accept the final Language as presented and direct the Town Clerk to prepare the Order to place the Village Residential District and Official Zoning Map Land Use Ordinance amendment on the June 8, 2010 Town Meeting Warrant. Motion passed 7-0.
8. **Shoreland Standards** – Following public comments and Council discussion; Mr. Paradis, with second by Ms. Eveland, moved to accept the final Language as presented with the exception of removing Article III, the dimensional controls, and direct the Town Clerk to prepare the Order to place the Shoreland Standards Land Use Ordinance amendment on the June 8, 2010 Town Meeting Warrant, pending Town Attorney review. Motion passed 7-0.
9. **Historically and Locally Significant Properties** – There being no comments from the public; Mr. Paradis, with second by Ms. Eveland, moved to accept the final Language as presented and direct the Town Clerk to prepare the Order to place the Historically and Locally Significant Properties Land Use Ordinance amendment on the June 8, 2010 Town Meeting Warrant. Motion passed 7-0.
10. **Loading Zone Standards** – There being no comments from the public; Mr. Paradis, with second by Ms. Eveland, moved to accept the final Language as presented and direct the Town Clerk to prepare the Order to place the Loading Zone Standards Land Use Ordinance amendment on the June 8, 2010 Town Meeting Warrant. Motion passed 7-0.

VII. REGULAR BUSINESS:

A. Land Use Ordinance Amendments:

1. *Possible action to accept the final language as written and direct the Town Clerk to prepare for signing the Orders placing the LUO articles on the June 8 Town Meeting Warrant.* See action under Public Hearings.
2. *Request of Councilor Paradis to change the zoning to “Commercial Shoreland” from the College of the Atlantic to Sonogee Rehabilitation and Living Center.* – Following Councilor Paradis’ explanation to amend the zoning from the College of the Atlantic to Sonogee Rehabilitation and Living Center; Mr. Paradis, with second by Ms. Eveland, moved to accept the final Language as presented with the exception of revising the dimensional standards and direct the Town Clerk to prepare the Order to place the Shoreland General Commer-

cial III Standards Land Use Ordinance amendment on the June 8, 2010 Town Meeting Warrant. Motion passed 6-1 (Nay: Dr. Disney).

B. Committee Appointments:

1. **Parking & Traffic Committee** - *Applicant to fill one vacant seat with expiring term of June 30, 2011.* – Mr. Paradis nominated George Seavey to fill the Parking & Traffic Committee seat with an expiring term of June 30, 2011. There being no other nominations, Council voted unanimously to appoint George Seavey.

2. **Cruise Ship Committee** – *Possible appointment of members.*

Mr. Paradis, with second by Ms. Eveland, moved to direct staff to prepare an ordinance amendment for the February 9, 2009 Council meeting to add a representative from an entity receiving Cruise Ship Tenders to the Cruise Ship Committee Resource Group Membership. The initial term will be for 2 years and then 3 years thereafter. Motion passed 7-0.

Mr. Paradis nominated the following applicants to the corresponding seats on the **Cruise Ship Committee**:

- (a) Shane Carter representing the Fishing Industry with a three-year initial term.
- (b) Bob Bahr representing a Down Town Business with a two-year initial term.
- (c) Jeff Dobbs representing a Downtown Business with a one-year initial term.
- (d) Fred Cook as a resident-at-large with a three-year initial term.
- (e) Chris Fogg as a Resource Group member representing the Bar Harbor Chamber of Commerce with a two-year initial term.
- (f) Amy Powers as a Resource Group member representing CruiseMaine with a three-year initial term.
- (g) Greg Gordon as a Resource Group member representing a bus company serving cruise ship passengers with a one-year initial term.
- (h) Mary Opdyke as a Resource Group member representing the taxi tours industry serving cruise ship passengers with a one-year initial term.

There being no further nominations: Council unanimously appointed the above nominees with the corresponding terms.

Resident-at-Large – Two-year initial term

Mr. Paradis nominated George Seavey as a Resident-at-Large with a two-year initial term.

Mr. Jordan nominated Alice Long as Resident-at-Large with a two-year initial term.

George Seavey received one vote: Paul Paradis.

Alice Long received six votes: Dr. Disney, Greg Veilleux, Robert Jordan, Sandy McFarland, Ruth Eveland, and Peter St. Germain.

Alice Long was appointed as Resident-at-Large with a two-year initial term.

Dr. Disney, with second by Mr. Jordan, moved to direct staff to thank all unsuccessful applicants for the Cruise Ship Committee in writing. Motion passed 7-0.

Councilor Representative:

Ms. Eveland nominated Councilor Paradis.

Mr. Veilleux nominated Councilor Disney.

Councilor Paradis was appointed by a vote of six: Mr. McFarland, Ms. Eveland, Mr. Paradis, Mr. St. Germain, Mr. Veilleux, and Mr. Jordan.

Councilor Disney received one vote: Dr. Disney.

Council recessed at 9:48 p.m. and reconvened at 9:57 p.m.

C. Combined Sewer Overflow Master Plan:

1. *Report by Wright-Pierce Engineering on the CSO Master Plan tentatively approved by the Maine DEP.*
2. *Request of the Town Manager that Council schedule a public hearing for March 16. – Following a Power Point presentation from Wright-Pierce Engineer Chris Dwinal; Mr. Paradis, with second by Ms. Eveland, moved to set a public hearing date of March 16, 2010 for the CSO Master Plan. Motion passed 7-0.*

D. Affordable Housing: Northeast Creek – Request of the Bar Harbor Housing Authority commissioners that Council enters into a new Memorandum of Understanding and schedule a special open town meeting.

1. Motion by Councilor Disney to reconsider the Council action of January 19 that “Any other funding scenarios shall be referred to a Town Meeting election ballot upon receipt of a written request, signed by a majority of the BHHA commissioners and specifying the terms requested, which is received in sufficient time to negotiate a formal MOU and grant agreement prior to Council signing the order to place the request on the written ballot”. The above motion was made by Dr. Disney, with second by Mr. Veilleux, and motion failed 1-6 (Nay: Mr. Jordan, Mr. Veilleux, Mr. McFarland, Ms. Eveland, Mr. Paradis, and Mr. St. Germain).
2. *Should the motion to reconsider pass – Discussion and possible action on the commissioners’ request.*

E. Legislation – Request of Council Chair McFarland for endorsement of LD1290, "An Act To Amend the Law Authorizing the Application of Service

Charges to the Owners of Certain Real Property Exempt from Property Taxation". - Councilor Eveland disclosed that she is the executive director of the Jesup Memorial Library which is a nonprofit entity that could be potentially affected by LD1290.

Mr. Paradis, with second by Mr. Veilleux, moved to find that Councilor Eveland does not have a special interest in this matter. Motion passed 6-0-1. (Recused: Ms. Eveland).

Mr. Paradis, with second by Mr. Jordan, moved to endorse LD1290, An Act To Amend the Law Authorizing the Application of Service Charges to the Owners of Certain Real Property Exempt from Property Taxation, and direct the Town Manager to communicate this endorsement to our State legislative delegation and the Maine Municipal Association. Motion passed 6-1 (Nay: Dr. Disney).

- F. **Treasurer's Warrant** – *Request of Treasurer to authorize paid bills.* Mr. Paradis, with second by Ms. Eveland, moved to sign the Treasurer Warrant for paid bills. Motion passed 7-0.

VIII. COUNCIL COMMENTS AND SUGGESTIONS FOR NEXT AGENDA

Dr. Disney requested for the next agenda a discussion in ways to approach our non-profit organizations for payment in lieu of taxes.

IX. MATTERS FOR POSSIBLE EXECUTIVE SESSION:

- A. **Town Manager's Performance Evaluation** – *(To be held in executive session as permitted by 1 MRSA 405.6.A for discussion or consideration of a personnel matter.)* - Mr. Paradis, with second by Ms. Eveland, moved to enter into executive session at 11:16 p.m., following a break, as permitted by 1 MRSA 405.6.A for discussion or consideration of a personnel matter. Motion passed 7-0. Council entered into executive session at 11:22 p.m. Council came out of executive session at 11:45 p.m.

- X. **ADJOURNMENT** – Mr. Paradis, with second by Ms. Eveland, moved to adjourn at 11:45 p.m. Motion passed 7-0.

Paul Paradis, Secretary

